IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

SECOND APPEAL NO.872 OF 2006
a/w
Civil Application No.1405 of 2006

Shri Jyotin Chhotalal Gandhi
and anr. .. Appellants.
Vs
The Sub-Division Officer and anr .. Respondents.

Shri C.J.Sawant, senior counsel, for the appellants.
Ms G.P.Mulekar, for respondent nos 1 and 2.

CORAM : D.B.BHOSALE,J.
DATE : 22.11.2006

PC:

1. Heard Mr Sawant,learned senior counsel for the appellants and Ms. Mulekar, learned AGP, for respondent nos 1 and 2.

2. Mr Sawant, learned senior counsel for the appellants, on instructions from his client who is present in the court, prays for withdrawal of this appeal unconditionally, with liberty to the appellants to approach the concerned authority seeking regularisation of the disputed structure. Ms.Mulekar, learned AGP, has no objection for granting such liberty. However, she submitted that for making such application and disposing it of by the concerned authority some timeframe may be fixed. Considering the submissions advanced by the learned counsel for the parties, in my opinion, the following order shall meet the ends of justice.

(i) The appeal is allowed to be withdrawn unconditionally with liberty as prayed for.

(ii) The appellants shall make an appropriate representation to the concerned authority for regularisation of the disputed structure within four weeks from today. If such a representation is made, the concerned authority shall pass appropriate order thereon in accordance with law after giving an opportunity of being heard to the appellants within four months therefrom. If the order passed on the representation is adverse to the appellants, same shall not be given effect to for a period of four weeks from the date of communication of the order. This protection of four weeks is granted with a view to give them some breathing time before further action is taken by the concerned authority.

(iii) With these observations, the appeal along with the civil application stands disposed of.

(iv) While passing this order, I shall not be understood to have expressed any opinion in respect of the representation, that will be filed by the appellants, seeking regularisation of the unauthorised structure. The concerned authority shall deal with it on merits in accordance with law.

(D.B.BHOSALE,J.)